

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SUPPLEMENTAL DOCKET NUMBER 1
FOR THE REGULAR MEETING OF
MONDAY, MAY 8, 2006 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COUNCIL CHAMBERS – 12TH FLOOR
202 “C” STREET
SAN DIEGO, CA 92101**

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS

ITEM-S400: Impasse Procedure.

MAYOR SANDERS’ RECOMMENDATION:

Providing an impasse procedure, if necessary, for Management and International Association of Firefighters Local 145 and the Deputy City Attorney Association currently involved in contract negotiations.

SUPPORTING INFORMATION:

The current MOU and Council Policy 300-6 provide that Labor Organizations have a right to Council hearing on any issues at impasse at the conclusion of negotiations.

The purpose of the impasse meeting shall be to identify and specify in writing the issue or issues that remain in dispute according to Council Policy 300-6.

Michell/Froman

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS
RESOLUTIONS:

ITEM-S401: Authorizing Expenditure of Funds Needed to Comply with Court Order in SR-56 Lawsuit.

(State Route 56 Corridor, Torrey Highlands Community Area. District 1.)

(Continued from the meeting of May 1, 2006, Item S401, at the request of Councilmember Madaffer, for further review.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2006-918 Cor. Copy)

Amending the Fiscal Year 2006 Capital Improvement Program Budget for CIP-52-463.0 by increasing the budget amount by \$10,410,800;

Authorizing the appropriation of an amount not to exceed \$10,410,800 from General Fund Unappropriated Reserves, Fund 100, solely and exclusively, for the purpose of providing funds for the right-of-way acquisitions costs for CIP-52-463.0;

Authorizing the issuance of a check in the amount of \$10,410,800, from CIP-52-463.0, Fund 100, made payable to the State Treasury Condemnation Fund, to satisfy a court ordered payment in the State Route 56 eminent domain case, City of San Diego v. D.R. Horton, et al., San Diego Superior Court Case No. GIC777603-1, contingent upon the City Auditor and Comptroller certifying that the funds are available;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

STAFF SUPPORTING INFORMATION:

In November 2001, the City filed a Complaint in Eminent Domain against D.R. Horton to acquire 12.31 acres of a 39.38 acre parcel for the construction of State Route 56. The only issue relates to the "just compensation" to which D.R. Horton is entitled (the property owner's appraiser has valued the property at \$16,000,000 and the City's appraiser has valued the property at \$4,925,000). D.R. Horton does not challenge the City's authority to acquire the property by eminent domain.

ADOPTION AGENDA, DISCUSSION, OTHER LEGISLATIVE ITEMS (Continued)

RESOLUTIONS: (Continued)

ITEM-S401: (Continued)

STAFF SUPPORTING INFORMATION: (Continued)

The case came for trial in August 2003, and the jury verdict was \$5,589,200, which was paid. The trial judge granted the property owner's motion for a new trial, which was upheld on appeal. The matter has been set for a retrial on November 17, 2006. In preparation for the retrial, the property owner made a motion in court to increase the deposit of probable compensation to \$16,000,000, which was granted. Therefore, the City must deposit an additional \$10,410,800 (\$16,000,000 minus the \$5,589,200 that was already paid) with the State Treasury Condemnation Fund by May 5, 2006.

FISCAL CONSIDERATIONS:

There is not enough money remaining in the State Route 56 Project funds (CIP-52-463.0) to make the additional \$10,410,800 deposit. The General Fund Unappropriated Reserves has been identified to make the court-ordered deposit. Staff is exploring alternate funding sources to repay this amount to the General Fund Unappropriated Reserves.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Council was briefed on the status of the litigation in Closed Session on April 4, 2006.

Goldstone/Haas

Aud. Cert. 2600767.

Staff: Leslie A. FitzGerald – (619) 533-5804